

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NICOLLE BESUDEN,

Plaintiff,

-against-

THE CITY OF NEW YORK, ET AL.,

Defendants.

**DECLARATION OF  
FELIX DE JESUS IN  
SUPPORT OF CITY  
DEFENDANTS'  
MOTION TO DISMISS  
PURSUANT TO FED. R.  
CIV. PRO. 12(B)(6)**

21-CV-8462 (LAK)

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**FELIX DE JESUS**, an attorney duly admitted to practice in the State of New York and in the United States District Court for the Southern District of New York, declares, pursuant to 28 U.S.C. §1746, under penalty of perjury, that the following is true and correct:

I am an Assistant Corporation Counsel in the Office of the Hon. Sylvia O. Hinds-Radix, Corporation Counsel of the City of New York, attorney for the City defendants.<sup>1</sup> As such, I am familiar with the facts and circumstances stated below. I submit this declaration in support of City Defendants' Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6).

1. Annexed as Exhibit "A" is a copy of Plaintiff's First Amended Complaint dated June 2, 2022.

2. Annexed as Exhibit "B" is a true and accurate copy of the body-worn camera video ("BWC") of Sergeant Thomas Durkin recorded on July 28, 2020 beginning at approximately 5:54 p.m.

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<sup>1</sup> City defendants are City of New York, Mayor Bill de Blasio, New York City Police Department ("NYPD") Commissioner Dermot Shea, NYPD Chief Terence Monahan, Captain O'Hare, NYPD Deputy Inspector Elias Nikka, NYPD Captain Julio Delgado, NYPD Captain Michael John, Officer Jian Yu, Officer Patrick Connolly, Officer Cardenas, and Officer Edward Casaceli.

3. Annexed as Exhibit “C” is a true and accurate copy of the BWC of Lieutenant Michael Gaon recorded on July 28, 2020 beginning at approximately 6:03 p.m.

4. Annexed as Exhibit “D” is a true and accurate copy of the BWC of Police Officer Jackson Dagobert recorded on July 28, 2020 beginning at approximately 6:04 p.m.

5. Annexed as Exhibit “E” is a true and accurate copy of the BWC of Sergeant Kevin Mulhern recorded on July 28, 2020 beginning at approximately 6:04 p.m. for a duration of approximately eight minutes and 36 seconds.

6. Annexed as Exhibit “F” is a true and accurate copy of the BWC of Officer Louis Delia recorded on July 28, 2020 beginning at approximately 6:05 p.m. for a duration of 13 minutes and 54 seconds.

7. Annexed as Exhibit “G” is a true and accurate copy of a Certificate of Disposition, dated December 2, 2021.

8. Annexed as Exhibit “H” is a true and accurate copy of the BWC of Police Officer Muneeb Shahbaz recorded on September 29, 2020 beginning at approximately 9:57 p.m. for a duration of 27 minutes.

9. Annexed as Exhibit “I” is a true and accurate copy of the BWC of Police Officer Anthony Lewis recorded on September 29, 2020 beginning at approximately 9:57 p.m. for a duration of 26 minutes and 41 seconds.

10. Annexed as Exhibit “J” is a true and accurate copy of the BWC of Police Officer Ileana Feliz recorded on September 29, 2020 beginning at approximately 9:59 p.m. for a duration of 12 minutes and 29 seconds.

11. Annexed as Exhibit “K” is a true and accurate copy of the BWC of Lieutenant Christopher Schmidt recorded on September 29, 2020 beginning at approximately 9:57 p.m. for a duration of 17 minutes and 42 seconds.

12. Annexed as Exhibit “L” is a true and accurate copy of the BWC of Police Officer Reginal Jeanraymond recorded on September 29, 2020 beginning at approximately 10:00 p.m. for a duration of 13 minutes and eight seconds.

13. Annexed as Exhibit “M” is a true and accurate copy of the BWC of Police Officer Alfredo Jeff recorded on September 29, 2020 beginning at approximately 9:59 p.m. for a duration of 11 minutes and two seconds.

14. Annexed as Exhibit “N” is a true and accurate copy of the BWC of Sergeant Theresa Wilson recorded on September 29, 2020 beginning at approximately 9:59 p.m. for a duration of 25 minutes and 32 seconds.

15. Annexed as Exhibit “O” is a true and accurate copy of the BWC of Police Officer Mohamed Yafai recorded on September 29, 2020 beginning at approximately 9:59 p.m. for a duration of 13 minutes and 27 seconds.

16. Annexed as Exhibit “P” is a true and accurate copy of the BWC of Lieutenant Equashia Allen recorded on September 29, 2020 beginning at approximately 9:58 p.m. for a duration of 26 minutes and one second.

17. Annexed as Exhibit “Q” is a true and accurate copy of the BWC of Police Officer Gerlando Marchetta recorded on September 29, 2020 beginning at approximately 9:59 p.m. for a duration of three minutes and 42 seconds.

18. Annexed as Exhibit “R” is a true and accurate copy of the BWC of Police Officer Enmanuel Montesino recorded on September 29, 2020 beginning at approximately 10:01 p.m. for a duration of 17 minutes and 31 seconds.

19. Annexed as Exhibit “S” is a true and accurate copy of the BWC of Police Officer Steven Holguin recorded on September 29, 2020 beginning at approximately 10:00 p.m. for a duration of 20 minutes and 30 seconds.

20. Annexed as Exhibit “T” is a true and accurate copy of the BWC of Police Officer Edward Weisenburger recorded on September 29, 2020 beginning at approximately 9:59 p.m. for a duration of 13 minutes and 21 seconds.

21. Annexed as Exhibit “U” is a true and accurate copy of a Certificate of Disposition, dated December 2, 2021.

22. Annexed as Exhibit “V” is a true and accurate copy of the body-worn camera video (“BWC”) of Captain Robert O’Hare recorded on August 11, 2020 beginning at approximately 12:12 a.m. for a duration of 62 minutes and 33 seconds.

23. Annexed as Exhibit “W” is a true and accurate copy of the BWC of Officer James Arenella recorded on October 25, 2020 beginning at approximately 1:40 p.m. for a duration of seven minutes and 54 seconds.

24. Annexed as Exhibit “X” is a true and accurate copy of the BWC of Police Officer Jian Yu recorded on October 25, 2020 beginning at approximately 1:41 p.m. for a duration of 11 minutes and 21 seconds.

25. Annexed as Exhibit “Y” is a true and accurate copy of a Certificate of Disposition, dated December 22, 2021.

26. Annexed as Exhibit “Z” is a true and accurate copy of one of Plaintiff’s social media posts as obtained or received by the Corporation Counsel of the City of New York via Plaintiff’s Instagram account.

Dated: August 15, 2022  
New York, New York

HON. SYLVIA O. HINDS-RADIX  
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By: *Felix De Jesus /s/*  
Felix De Jesus  
*Assistant Corporation Counsel*  
Special Federal Litigation Division

cc: **BY ECF**  
*All counsel of record*